

UPPER CLARK FORK RIVER BASIN RESTORATION FUND FISCAL YEAR END 2006 STATUS REPORT

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Background

On April 19, 1999, the U.S. District Court for the District of Montana approved a consent decree between the Atlantic Richfield Company (ARCO) and the State of Montana. This decree partially settled the State's natural resource damage lawsuit against ARCO to recover damages for injuries to the public's natural resources in the Upper Clark Fork River Basin (UCFRB). In addition to the payment of \$15 million for assessment and litigation costs, \$80 million for Silver Bow Creek remediation costs, and a land transfer to the State worth \$2 million, ARCO agreed to pay the State \$118 million on or before July 18, 1999, plus interest from April 6, 1998. With interest, ARCO's payment to the State totaled approximately \$129.3 million. Under the terms of the Consent Decree, \$10 million of that was set aside in the Silver Bow Creek Reserve Fund to be used, if necessary, for certain types of cost overruns incurred in the remediation of Silver Bow Creek. The remaining \$119.3 million, plus \$460,000 in leftover assessment cost settlement funds, were deposited in the UCFRB Restoration Fund to restore or replace the natural resources injured and/or the services lost as a result of hazardous substance releases that were the subject of the Montana v. ARCO lawsuit.

The Montana Board of Investments manages both funds, which are split among a variety of investment vehicles:

- Liquidity is provided by the Short Term Investment Pool (STIP).
- Securities with maturities out to 10 years are used for short-to-intermediate term investments.
- Long-term investments are made in the Trust Funds Bond Pool (TFBP). The majority of the settlement funds are invested in the TFBP.

UCFRB Restoration Fund Status

The attached table provides a financial revenue summary for the Restoration Fund investments. Investments are divided between the TFBP – 86%, the STIP – 6%, and government or corporate securities – 8%. The three securities mature between 2007 and 2035. The book value as of June 30, 2006 was approximately \$157.3 million; the market value was approximately \$155.9 million.¹ The book value represents securities' cost values, plus or minus amortized premiums or discounts. The market value represents the estimated value of securities or units in the STIP or TFBP on June 30, 2006.

Between January 1998 and July 2006, interest revenues of the Restoration Fund have totaled \$65,204,879.² Monthly interest revenues in the past six months averaged \$740,570. The Trustee's current policy regarding available grant funds is that only interest earned on the

¹ These fund balances include fiscal year end adjustments that are not included in the attached table.

² With the market adjustment, interest revenues between January 1998 and July 2006 totaled \$63,884,111.

principle in the coming years will be expended, unless the Trustee finds that it is appropriate to invade the principle to fund significant or time-critical projects.

The attached table summarizes Restoration Fund expenses to date by fiscal year. Expenses total \$27,705,424 from January 1998 through June 2006. The majority of Restoration funds, \$23,121,106 or 83%, have been spent on grant projects approved by the Governor. An additional \$14,207,120 has been approved for grant projects but not yet expended. The Montana Department of Fish, Wildlife and Parks (MFWP) has expended \$394,345 of the \$3.2 million allocated by the 1999 Consent Decree for wetland/riparian enhancement in the UCRFB. Also, \$199,138 of the \$500,000 allocated in the Consent Decree for bull trout restoration was expended. Advisory Council expenses total \$125,838. Natural Resource Damage Program (NRDP) administrative expenses total \$2,354,795. NRDP site-specific expenses total \$1,510,202 for restoration planning, assessment and consent decree implementation activities.³

The attached table also provides a comparison of revenues and expenditures for the Restoration Fund. Without market adjustments considered, the net increase in the Restoration Funds between July 1999 and July 2006 is about \$37.5 million (\$65.2 million in interest revenue minus \$27.7 million in expenditures).⁴

Silver Bow Creek Reserve Fund Status

Between January 1998 and July 2006, interest revenues from the \$10 million set aside in the Silver Bow Creek Reserve Account totaled \$6,152,837. The book value as of June 30, 2006 was \$16.1 million; the market value was \$15.9 million. The monthly income amount has averaged \$77,135 per month in the last six months. Approximately 99% of these funds are invested in the TFBP, with the remaining balance in STIP. When it is determined that this money is not needed for Silver Bow Creek remediation activities, it may be used for restoration funding.

Milltown Restoration Fund Status

In 2005, the State settled its natural resource damage claim against NorthWestern Corporation for injuries specific to the Milltown Dam site. NorthWestern agreed to pay the State \$3.9 million of those claims and to transfer certain property rights at the Milltown site, subject to certain conditions. NorthWestern has already paid \$2.5 million to the State and is obligated to pay an additional \$1.4 million by August 2008. This settlement money, combined with any interest earned on the \$3.9 million and an allocation of \$7.6 million from the UCFRB Restoration Fund, will be used to conduct restoration at the confluence of the Clark Fork and Blackfoot Rivers in coordination with the remedial actions conducted at the Milltown Dam site. In total, \$11.5 million has been approved for restoration at the Milltown site.

In April 2006, the State received the initial deposit of \$2,500,000 from NorthWestern and deposited it in the Milltown Restoration Fund. In Fiscal Year 2006, interest revenue of \$26,569 was earned. This money is invested in STIP. As of July 2006, \$426,386 of the approved \$11.5 million approved for restoration at Milltown has been expended for restoration design work at the site.

³ The NRDP site-specific expenses are the total of the costs shown in the table for the Silver Bow Creek Land Transfer, Silver Bow Creek Planning, Milltown Administration, Milltown Restoration, Restoration Planning and Assessment (for the three remaining litigation claims), and Restoration Grant Supplemental categories.

⁴ With market adjustments considered, the net increase in the Restoration Fund is about \$36.1 million.

UCFRB RESTORATION FUND FISCAL YEAR 2006 EXPENSES									
Entity	1st Quarter '06	2nd Quarter '06	3rd Quarter '06	4th Quarter '06			Total		
MFWP	\$0.00	\$0.00					\$0.00		
NRDP Restoration Admin									
Operating	\$46,099.68	\$20,332.36	17,083.10	39,251.53			\$122,766.67		
Personnel	\$67,377.98	\$73,736.06	85,493.31	100,616.35			\$327,223.70		
Advisory Council	\$3,123.19	\$1,717.54	1,742.08	5,388.15			\$11,970.96		
Silver Bow Creek Land Transfer	\$0.00	\$0.00					\$0.00		
Silver Bow Creek Planning	\$746.89	\$251.68	1,180.04	120.65			\$2,299.26		
Milltown Administration	\$34,937.70	\$21,865.52	17,184.36	16,962.68			\$90,950.26		
Subtotal	\$152,285.44	\$117,903.16	\$122,682.89	\$162,339.36			\$555,210.85		
NRD Grants	\$568,775.60	\$2,428,151.14	780,783.63	2,870,875.77			\$6,648,586.14		
Restoration Supplemental	\$733.00	\$18,788.13	1,213.07	8,364.61			\$29,098.81		
Restoration Planning & Assess	\$5,822.23	\$31,533.39	59,201.37	94,618.48			\$191,175.47		
Milltown Restoration			49,416.91	95,987.23			\$145,404.14		
Total	\$727,616.27	\$2,596,375.82	\$1,013,297.87	\$3,232,185.45	\$0.00	\$0.00	\$7,569,475.41		
Toal Grant Money Allocated but Not Spent							\$14,207,119.59		
Total UCFRB RESTORATION FUND EXPENSES									
Entity	1/1/98 TO 7/1/00	FY01	FY02	FY03	FY 04	FY05	FY06	TOTAL	
MFWP Admin*		\$40,000.00	80,000.00	120,000.00	80,000.00	0.00		\$320,000.00	
MFWP Wetland/Riparian	\$49,653.00	\$1,000.00	1,800.00	21,892.50	0.00	0.00		\$74,345.50	
Bulltrout Restoration**	\$0.00	\$0.00	0.00	48,993.44	40,537.33	109,607.64		\$199,138.41	
Advisory Council	\$38,349.14	\$25,246.07	9,903.78	16,628.57	12,145.42	11,593.85	11,970.96	\$125,837.79	
NRDP Administration	\$315,459.27	\$306,368.63	291,415.71	305,299.71	337,779.51	348,481.39	449,990.37	\$2,354,794.59	
Silver Bow Creek Land Tra	\$0.00	\$249.50	2,414.50	980.41	0.00	0.00	0.00	\$3,644.41	
Silver Bow Creek Planning			27,096.77	121,832.67	51,027.33	54,839.64	2,299.26	\$257,095.67	
Milltown Administration			8,805.89	84,869.77	96,620.07	128,253.74	90,950.26	\$409,499.73	
Milltown Restoration						280,982.10	145,404.14	\$426,386.24	
Subtotal	\$403,461.41	\$372,864.20	\$421,436.65	\$720,497.07	\$618,109.66	\$933,758.36	\$700,614.99	\$4,170,742.34	
NRD Grants		\$4,510,783.43	2,222,402.04	4,129,943.45	2,082,205.89	3,527,184.97	6,648,586.14	\$23,121,105.92	
Restoration Planning & Assess						193,301.60	191,175.47	\$384,477.07	
Restoration Supplemental							29,098.81	\$29,098.81	
Total	\$403,461.41	\$4,883,647.63	\$2,643,838.69	\$4,850,440.52	\$2,700,315.55	\$4,654,244.93	\$7,569,475.41	\$27,705,424.14	
*MFWP has received transfers in the amount of \$320,000 and has expended that amount.									
**\$366,869.87 was transferred from the Bulltrout acct to the Milltown Restoration Account.									
COMPARISON OF REVENUES AND EXPENSES									
	FY99	FY00	FY01	FY02	FY03	FY04	FY 05	FY 06	TOTAL
Interest Revenues	\$3,070.63	\$8,107,715.13	9,299,113.11	\$9,514,244.11	\$9,510,511.94	\$10,042,592.11	\$9,964,445.98	\$8,763,186.22	\$65,204,879.23
Expenses:	\$0.00								
Program (NRD, FWP, Advi	\$0.00	\$403,461.41	372,864.20	\$421,436.65	\$720,497.07	\$618,109.66	\$933,758.36	\$700,614.99	\$4,170,742.34
Grants	\$0.00		4,510,783.43	\$2,222,402.04	\$4,129,943.45	\$2,082,205.89	\$3,527,184.97	\$6,648,586.14	\$23,121,105.92
Restoration Planning & Assess							\$193,301.60	\$191,175.47	\$384,477.07
Restoration Supplemental								\$29,098.81	\$29,098.81
Total Expenses	\$0.00	\$403,461.41	\$4,883,647.63	\$2,643,838.69	\$4,850,440.52	\$2,700,315.55	\$4,654,244.93	\$7,569,475.41	\$27,705,424.14
									\$0.00
Difference (REV - EXP)	\$3,070.63	\$7,704,253.72	\$4,415,465.48	\$6,870,405.42	\$4,660,071.42	\$7,342,276.56	\$5,310,201.05	\$1,193,710.81	\$37,499,455.09
FYE Market Adjustment		-\$3,455,812.78	\$5,122,228.31	\$1,480,794.40	\$9,204,246.04	-\$7,608,801.00	1,607,299.46	-\$7,670,656.98	-\$1,320,702.55
Revenues - Expenses with Market Adjustment		\$4,248,440.94	\$9,537,693.79	\$8,351,199.82	\$13,864,317.46	-\$266,524.44	\$6,917,500.51	-\$6,476,946.17	\$36,175,681.91
ASSET BREAKDOWN as of 7/31/06									
Security Name	Maturity	Book Value	Market Value						
Ensco Offshore Co	12/01/15	\$3,166,763	\$3,253,501						
Federal Home Loan Mtg Corp	04/02/07	\$2,987,784	\$2,967,585						
JP Morgan Chase Loan Trust	7/12/35	\$3,680,207	\$3,500,951						
Trust Fund Bond Pool		\$134,497,795	\$133,319,888						
United States Treasury Notes	12/31/06	\$2,996,562	\$2,966,484						
Short Term Investment Pool		\$8,930,344	\$8,930,344						
Total		\$156,259,455	\$154,938,753						
Note: This table does not include SBC Reserve Fund or Milltown Restoration Fund									